

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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Bernadette Thomas,

Plaintiff,

v.

Law Offices of Ross Gelfand; and DOES 1-10,  
inclusive,

Defendants.

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Civil Action No.: \_\_\_\_\_

**COMPLAINT**

Plaintiff, Bernadette Thomas, says by way of Complaint against Defendant, Law Offices of Ross Gelfand , as follows:

**JURISDICTION**

1. This action arises out of Defendants’ repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. (“FDCPA”), and the invasions of Plaintiff’s personal privacy by Defendant and its agents in their illegal efforts to collect a consumer debt.

2. This Court has supplemental jurisdiction over all other claims in this action, as all such claims arise out of the same case or controversy as Defendant’s violations of the FDCPA pursuant to 28 U.S.C. § 1367.

3. Venue is proper in the U.S. District Court for the District of New Jersey pursuant to 28 U.S.C. § 1391(b), as Defendant transacts business in the State of New Jersey.

**PARTIES**

4. The Plaintiff, Bernadette Thomas (“Plaintiff”), is an adult individual residing in South Plainfield, New Jersey, and is a “consumer” as the term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Law Offices of Ross Gelfand (“Gelfand”), is a Georgia business entity with an address of 1265 Minhinette Drive, Suite 150, Roswell, Georgia 30075, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Gelfand and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Gelfand at all times acted by and through one or more of the Collectors.

### **ALLEGATIONS APPLICABLE TO ALL COUNTS**

#### **A. The Debt**

8. The Plaintiff allegedly incurred a financial obligation in the approximate amount of \$8,000.00 (the “Debt”) to Honda (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Gelfand for collection, or Gelfand was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

#### **B. Gelfand Engages in Harassment and Abusive Tactics**

12. Within the last year, Gelfand contacted Plaintiff in an attempt to collect the Debt.

13. Gelfand called Plaintiff at her place of employment in an attempt to collect the Debt.

14. Plaintiff informed Gelfand that calls to her workplace were inconvenient and against the policy of her employer.

15. Thereafter, despite having been so informed, Gelfand continued calling Plaintiff at her place of employment, causing frustration to Plaintiff.

16. Furthermore, on one occasion, Gelfand called Plaintiff's workplace and spoke with Plaintiff's coworker Linda Scott.

17. Gelfand disclosed the nature of the call to Ms. Scott. Such disclosure caused Plaintiff a great deal of embarrassment.

18. Plaintiff offered to make monthly payments in the amount of \$200.00 in an effort to reduce the amount owed and to cease collection activity.

19. Gelfand threatened to take a legal action against Plaintiff in the Debt was not paid in full immediately. To date, no legal action has been filed by Gelfand as threatened.

20. During most calls, Gelfand identified itself as a law firm, however failed to advise Plaintiff that the call was an attempt to collect the Debt and all information obtained would be used for that purpose.

21. Gelfand failed to notify Plaintiff of her rights in writing five days after the initial contact, including Plaintiff's right to dispute the Debt.

### **C. Plaintiff Suffered Actual Damages**

22. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

23. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

24. The Defendants' conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

**COUNT I**

**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 U.S.C. § 1692, et seq.**

25. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

26. The Defendants' conduct violated 15 U.S.C. § 1692c(a)(3) in that Defendants contacted the Plaintiff at his place of employment, knowing that the Plaintiff's employer prohibited such communications.

27. The Defendants' conduct violated 15 U.S.C. § 1692c(b) in that Defendants communicated with individuals other than the Plaintiff, the Plaintiff's attorney, or a credit bureau.

28. The Defendants' conduct violated 15 U.S.C. § 1692d in that Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.

29. The Defendants' conduct violated 15 U.S.C. § 1692e(2) in that Defendants misrepresented the character and legal status of the Debt.

30. The Defendants' conduct violated 15 U.S.C. § 1692e(5) in that Defendants threatened to take legal action, without actually intending to do so.

31. The Defendants' conduct violated 15 U.S.C. § 1692e(11) in that Defendants failed to inform the consumer that the communication was an attempt to collect a debt.

32. The Defendants' conduct violated 15 U.S.C. § 1692g(a) in that Defendants failed to send Plaintiff an initial letter within five days of its initial contact with Plaintiff as required by law.

33. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

34. The Plaintiff is entitled to damages as a result of Defendants' violations.

## **COUNT II**

### **INVASION OF PRIVACY BY INTRUSION UPON SECLUSION**

35. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

36. The Restatement of Torts, Second, § 652(b) ascribes liability for intrusion upon seclusion where one individual, "intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns," and further states that "[said individual] is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person."

37. New Jersey further recognizes Plaintiff's right to be free from invasions of privacy. Thus, the Defendant violated New Jersey state law.

38. The Defendants' telephone calls to the Plaintiff were so persistent and repeated with such frequency as to be considered, "hounding [the Plaintiff]," and "a substantial burden to [his] existence," amounting to an invasion of privacy as defined by the Restatement of Torts, Second, § 652(b).

39. The Defendants' conduct of engaging in the foregoing illegal collection activities resulted in multiple invasions of privacy that would be considered highly offensive to a reasonable person.

40. As a result of the intrusions and invasions enumerated above, the Plaintiff is entitled to actual damages from the Defendants in an amount to be determined at trial.

41. All acts of the Defendants and their agents were committed with malice, intent, wantonness, and recklessness, and as such, the Plaintiff is entitled to punitive damages from the Defendants.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that judgment be entered against the Defendants:

1. Actual damages including, but not limited to, the emotional distress the Plaintiff has suffered (and continues to suffer) as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy pursuant to 15 U.S.C. § 1692k(a)(1);
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3);
4. Liquidated damages;
5. Punitive damages; and
6. Such other and further relief that the Court may deem just and proper.

### **TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: February 14, 2013

Respectfully submitted,

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